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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy

Addendum

Report on the mission of the Special Rapporteur to Brazil on the issue of domestic violence (15-26 July 1996)

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Introduction

1. At the invitation of the Government of Brazil, the Special Rapporteur on violence against women, its causes and consequences visited Brasilia, Rio de Janeiro, Sao Paolo, Campinas and Porto Alegre, Brazil, from 15 to 26 July 1996, to study in depth the issue of domestic violence against women. The present report is intended as a case-study to complement the Special Rapporteur's previous report on violence against women in the family, presented to the Commission on Human Rights at its fifty-second session (E/CN.4/1996/53 and Add.2).

2. The Special Rapporteur is grateful for the cooperation extended to her by the Government of Brazil, enabling her to meet with all sectors of society, as requested, in order to gain a comprehensive understanding of the issue at hand and to report to the Commission on Human Rights in an objective and impartial manner. Throughout her visit the Special Rapporteur encountered openness on behalf of the Government of Brazil in recognizing the extent of domestic violence in Brazil and a certain political momentum for concrete strategies and action to combat violence against women.

3. The Special Rapporteur would like to express her sincere gratitude to the United Nations Development Fund for Women (UNIFEM) for enabling Ms. Branca Moreira Alves, Regional Programme Adviser of UNIFEM Brasilia, to accompany her throughout the mission. The substantive and logistical support extended to the Special Rapporteur by UNIFEM and, in particular by Ms. Moreira Alves, contributed significantly to the successful outcome of the mission and demonstrated effective institutional cooperation within the United Nations system towards the elimination of violence against women.

4. The Special Rapporteur is also grateful to the United Nations Development Programme, and in particular Mr. Cesar A. Miquel, Resident Representative, and Mr. Gilberto Chaves, for the outstanding logistical and administrative support extended in connection with the mission.

5. During her visit, the Special Rapporteur met with the Acting Minister for Foreign Affairs, the Ministers of Justice and Labour, with high-level representatives of State government, representatives of the National Congress, of the National and State Councils for Women's Rights, the police, non-governmental organizations and academic institutions. The Special Rapporteur also heard testimonies of women victims of domestic violence. A list of principal persons consulted is annexed to the present report.

6. The Special Rapporteur chose Brazil as a case-study for the issue of domestic violence because available data indicate a high prevalence of such violence in the country but also because of the many existing programmes and activities, both governmental and non-governmental, to combat and prevent such violence. It is from the practical experience of such initiatives that the Special Rapporteur hoped to gain a deeper understanding of the causes and consequences of domestic violence and of effective measures to eliminate the phenomenon.

I. WOMEN VICTIMS OF VIOLENCE

A. The case of Sylvana

7. Sylvana is a 29-year-old cleaning woman from Sao Paolo. She has been living with her partner for nine years and has three children by him. Not long ago, he suddenly turned violent against her. Every day he would beat, punch, kick and smack her and pull her hair. He would also threaten her with a knife. It seemed that financial difficulties, exacerbated by his drug-addiction, had made him a bitter, anxious man. Sylvana's partner wanted her to prostitute herself to bring in more money to the family. So he would throw her out of the house, demanding that she return only after she had earned money from prostitution. Finally, on 24 June 1996, Sylvana could not bear it any longer and reported him to the women's police station in her district.

8. The women's police station organized her transfer to the municipal shelter. Sylvana, however, was anxious for her children who still remained at home with a violent father, especially because she had also caught him lifting the sheets and sexually abusing their eight-year-old daughter. Since she was desperate to get her children to safety, she lured her partner, at her own risk, out of the house. In his absence, she went to fetch her children, gather clothes and documents and returned to the police station, where she recorded the event. When her partner found his whole family missing, he repeatedly contacted Sylvana's parents, claiming that Sylvana had run away with another man and using abusive language and threats. He was then requested by the police to meet Sylvana at the women's police station, where Sylvana extracted an obligation from him in front of the police to the effect that he would leave her and the children alone. Nevertheless, he continues his threatening telephone calls to Sylvana's family.

9. Meanwhile, the shelter contacted a lawyer for Sylvana, who informed her that she would lose her rights to the house through abandonment and, since according to Brazilian legislation the father is the automatic guardian of the children, that she would have the burden of proving him an unfit father. At the time of the interview, Sylvana had no income, received no maintenance from her husband and was at the mercy of the State shelter. Her biggest hope was to get enough money from the municipality for a bus ticket to the north, to her family's home.

B. The case of Cleonica

10. Cleonica, a 27-year-old domestic worker, is from Montes Claros, Minas Gerais. Cleonica lived with her unemployed husband, their three children and her husband's aunt. Her husband treated her well until his aunt accused Cleonica of being unfaithful every time she would leave the house. As a result, Cleonica's husband started to abuse her physically and verbally. Initially, Cleonica was determined not to leave her husband and put up with his beatings. Her husband would kick her, punch her in the eye and whip her with an electric wire, even while she was pregnant with their last child. Cleonica lost her job after her employer noticed that she was black and blue all over her body and asked her to stop coming to work.

11. Cleonica put up with her husband's violence for over five years, since he would cry and beg for her forgiveness on his knees after each violent attack. Cleonica spoke of an almost cyclical pattern in her husband's behaviour: 3 days of violence, followed by 3 days of care; or 15 days of violence followed by 15 days of love and care.

12. In July 1996, however, Cleonica could not bear the beating any longer - in her desperation, she had even bought poison with the thought of killing herself. After having been threatened at knife-point, Cleonica called the police and was taken to a police station to record her statement. On the advice of the police, Cleonica went to stay with a friend, who informed her of the existence of women's police stations.

13. While the women's police station arranged for her stay at the municipal shelter, no one informed Cleonica that her husband had committed a crime and no summons was sent to her husband. Since then, Cleonica has had one meeting with her husband at the police station, when he proposed to sell their house so that she could have the money to travel to her parents' house. Cleonica has also met with several lawyers but since so many documents, which are not in her possession, are required for legal proceedings, she has given up.

C. The case of Mary

14. Mary, 39, is from Arapongas, Paraná, and used to work as a telephone saleswoman until she came to the municipal shelter. Mary has no children and met her partner of 16 years when he was an English teacher at a reputable language school in Sao Paolo. He is Serbian and Mary is of Japanese descent. After six months of living together, Mary's partner started to get very jealous of another English teacher and forced her to give up her classes with him. His jealousy, however, escalated: he would tie her to a chair, gag her, beat her with a piece of wood and then lock her in the house for the day. He also would verbally abuse her and forbid her from contacting her family. Mary's partner continued to be very violent and started drinking heavily. Once, in his anger at a broken elevator, he ripped the steel cable with his bare hands.

15. On the day that Mary took an overdose of tranquillizers and locked herself in her room, her partner broke the door down and made Mary sleep on the threshold of the broken door. Another day, when Mary was 20 minutes late from work due to an electrical blackout, he was waiting for her in the lobby of the apartment building in order to beat her up. Mary rushed inside the apartment; he followed her and made her lie down naked. He then forced a coffee spoon into her vagina, scraped the uterus and put the used spoon in the fridge. He was going to have the spoon tested for foreign semen the next day at the hospital.

16. Mary lived with her partner for nearly 16 years, always hoping that his violent behaviour would disappear. During that time Mary ran away many times; she once even stayed away for three months. She would always return, however, in view of her partner's violent threats to her family.

17. In July 1996, Mary had had enough and when she was sent out to buy cigarettes, she gathered her documents, bought the cigarettes as requested, asked the porter to give them to her partner, and left him. She went to a women's police station, where her complaint was registered and she was sent to the shelter. Mary was not treated in a friendly manner by the police officers, nor was her partner summoned. Since then, Mary has filed a suit for criminal threat but does not have much confidence in the legal proceedings since she is required to find witnesses and other evidence. Meanwhile, Mary's family has hired a private detective to monitor her partner's movements and to record the threatening phone calls. All Mary has left are scars and marks all over her body - the most telling evidence of the horrible violence and abuse to which she has been subjected.

II. THE NATURE OF THE PROBLEM

18. In 1993, the House of Representatives of the Brazilian Parliament established a Parliamentary Inquiry Commission to investigate violence against women in Brazil. The report of the Commission, based on 205,219 questionnaires, revealed that 26.2 per cent of the crimes against women were based on physical injury; 16.4 per cent were criminal threats against the women; 3 per cent were "crimes of honour"; 1.9 per cent were crimes of seduction; 1.8 per cent were rape and 0.5 per cent were homicides. Other crimes, such as violence and indecent assault, kidnapping, private incarceration, racial discrimination and discrimination in the workplace constituted 51 per cent of the total. The Commission further found that of the women victims of physical violence, 88.8 per cent were housewives. 1/ Data also indicate that the majority of assaults against women take place at home, especially those against married women between 18 and 29 years of age. 2/

19. In Sao Paolo, statistics gathered by the special adviser to women's police stations (delegacia especializada de atendimiento à mulher or DEAM) indicated that physical injury represented 70.2 per cent of all crimes against women in the first half of 1992. 3/ The Parliamentary Inquiry Commission also reported that 336 cases of violence against women were registered every day and that most of the violence was committed by male relatives or friends between 6 p.m. and 8 p.m. Assaults during weekends and on Wednesday nights were also statistically noteworthy. The Commission also pointed out that violence against women did not differ substantially in relation to race or ethnicity. White and non-white populations reported similar levels of aggression against women. 4/

20. According to statistics gathered by the heads of police stations in Rio de Janeiro in 1995, approximately 23,000 women were reported to be victims of violence in comparison with 17,431 male victims; 65-70 per cent of the women were victims of domestic violence. 5/ In Sao Paolo, in the same year, approximately 130,000 cases of violence against women were recorded. From January to March 1996, 50,000 cases were registered. 6/ These findings were confirmed by research conducted by the non-governmental organization CEPIA (Cidadania, Estudo, Pesquisa, Informaçao e Açao), based in Rio de Janeiro, showing that 65-70 per cent of aggression suffered by women took place in the home and was committed by a family member. Furthermore, a reputed scholar

informed the Special Rapporteur that, according to her research, a woman is beaten every four minutes by a man in Brazil and that only 2 per cent of those aggressors convicted of domestic violence actually serve sentences. 7/

21. The above statistics relating to violence against women in Brazil highlight the fact that women are victimized for the most part by those who are intimately connected to them - husband, father or brother - which considerably complicates the issue. Women are frequently reluctant to bring criminal charges against those with whom they share a home and/or a common life. For the most part, the victim sees the issue of intimacy in distorted terms: she reports the violence to the police station in the hope that the police will scold the perpetrator and then assist in some form of reconciliation. In one case, for example, a father was convicted for sexually abusing his own children and sent to prison. His wife and children were extremely distraught, insisting that they loved their husband/father, and were full of hatred against the police officers who were responsible for the incarceration of the important man in their lives.

22. The Special Rapporteur was informed by many police officers that many registered cases of domestic violence are withdrawn by the women victims at the first sign of reconciliation with their husbands. It is, therefore, important to emphasize that everyone interviewed by the Special Rapporteur pointed out that the existing statistics reveal only the tip of the iceberg.

23. There is no doubt that domestic violence is a criminal act and that the penal laws of all countries must be strong enough to deter acts of domestic violence. Domestic violence, however, has a special quality, setting it apart from general criminal assault; this is the fact that intimacy complicates and obscures the criminality of the use of physical violence. Most criminal codes allow the criminal justice system little scope for this nuanced, sensitive role. In order to draw women victims out of their homes, legislation and criminal proceedings must be adjusted by combining civil and criminal remedies to ensure that they are given the necessary relief. The Special Rapporteur, in her previous report, proposed a framework for model legislation on domestic violence (see E/CN.4/1996/53/Add.2).

24. In the Special Rapporteur's discussions in Brazil, it became clear that economic independence is a crucial factor affecting women's response to domestic violence. Most victims of domestic violence do not have alternative accommodation, an independent means of livelihood or the means to meet the expenses of legal proceedings. To leave their husbands/partners is to leave behind their homes and their children. In addition, in Brazil there are no effective mechanisms that allow abused women to stay in their homes, such as police protection orders. As a result, and for fear of indigence, many women have no choice but to put up with the violence rather than face the economic consequences of separation from their male partners.

25. Many commentators whom the Special Rapporteur met noted the importance of "machismo" in Brazilian society - a concept which, they feel, underscores patriarchy in Brazil. "Machismo", or the male notion of superiority, is said to result in extreme male dominance. The concept, derived from the Spanish word "macho" used to describe the strong, brave and aggressive male, praises physical superiority and brutal force, legitimizing stereotypes that affirm

inequitable power relations between women and men. Although many cultures share a sense of male superiority, "machismo" legitimizes not only male superiority but the use of violence against women. As researchers at the University of Brasilia informed the Special Rapporteur, "machismo", as it exists in Brazilian society, is imbued with the notion that violence is a natural part of a relationship between men and women, as an indication of passion. State and society should intervene only if the violence becomes "too much", perhaps resulting in homicide. 8/ The Special Rapporteur considers that such societal and cultural attitudes, which frequently condone the existence of domestic violence, require a concerted campaign with regard to raising the awareness of the average citizen.

26. The report of the Parliamentary Inquiry Commission and many commentators indicated that patterns of violence against women vary by region and social group. It was felt, for example, that economically disadvantaged, black and indigenous women in rural areas did not have equal access to relief by appeal to the State. There appears to exist a certain level of alienation from State authorities preventing these women from seeking relief from domestic violence. 9/ In addition, it was pointed out that in the interior, rural areas of Brazil, the ineffectiveness of the criminal justice system and of law enforcement, as well as the lack of social services for women victims of violence, exacerbate the situation of women. Consequently, violence against women in these areas still remains largely invisible and is not captured by the statistics.

27. Nearly 44 per cent of the Brazilian population is black and there exists a general perception that black women are more susceptible to violence. In discussions with the Special Rapporteur, representatives of the black community felt that racist attitudes and the perceived discrimination against black people by the criminal justice system frequently prevents black women from seeking assistance. 10/ An example of prevailing attitudes against the black population told to the Special Rapporteur was a poster in a police station in Sao Paolo which stated that "A black man standing still is a suspect; a black man running is a thief". It is considered that, unless all actors of the criminal justice system, including the police, make a concerted effort to change their image with regard to the black community, it is very unlikely that many black women victims of domestic violence will find the courage and confidence to seek redress.

28. Social class was also frequently considered an important factor with regard to violence against women. It is felt that violence in upper-class families is less reported or recognized because of the stigma attached to reporting to the police. 11/ Consequently, in many cities such as Rio de Janeiro there are no women's police stations in wealthier neighbourhoods. The Special Rapporteur noted that the common misperception that domestic violence is a lower-class phenomenon resulting from unemployment and alcoholism is widely held and that police authorities are reacting to cases of violence with this perception in mind. The Parliamentary Inquiry Commission, however, concluded that violence against women is pervasive across all classes and that all such violence needs redress. It is, therefore, important that policy makers reflect on the class dimension of the problem and ensure that all women, regardless of class, are given access and quality service when reporting violence to the police.

29. Representatives of the indigenous community of Brazil were concerned that violence against Indian women is not treated seriously by the criminal justice system. It is alleged that, as part of the general neglect of Indian areas by the national and State governments, no programmes for combating violence against indigenous women exist in the country. It is argued that life expectancy among Indian people is 15 years less than life expectancy for other ethnic groups in Brazil and that the infant mortality rate in the Indian areas of Brazil is one of the highest in the world. There is, therefore, an urgent need to understand and study the problem of violence against women among the Indian community. 12/

30. The Special Rapporteur, therefore, considers the extension of programmes to combat violence against women, such as those devised for Rio de Janeiro, Brasilia, Porto Alegre and Sao Paolo (described below), to the interior, rural areas of Brazil a compelling need requiring the attention of the national and State governments, in an effort to provide redress for black and Indian women in particular.

31. In addition to domestic violence against wives and partners, UNICEF and other organizations concerned with the rights of the child pointed out that incest and sexual abuse within the family is also a matter of great concern in Brazil. The vulnerability of the girl child to abuse within the family is considered to be an issue that warrants much greater national concern and more effective governmental strategies than are currently in place.

32. Furthermore, the Union of Household Employees in Rio de Janeiro was very emphatic that domestic violence should also include violence against household workers. The Special Rapporteur was informed of cases of women domestic workers who had been raped, beaten and verbally abused. The majority of domestic workers are migrant women from rural areas of Brazil, whose documents are often confiscated by their employers, making them particularly vulnerable to violence and abuse. Although the 1988 Constitution of Brazil recognizes household employees as professionals entitled to benefits under the labour law (including 120 days' maternity leave, paid holidays and notice before dismissal), the Special Rapporteur was informed that effective enforcement of these provisions is lacking. The Union of Household Employees strongly advocated that crimes committed against domestic workers also be recognized as domestic violence and that special mechanisms to eliminate violence directed against them be established. 13/

III. THE LEGAL FRAMEWORK

A. At the international level

33. Brazil is a State party to the Convention on the Elimination of All Forms of Discrimination Against Women and recently withdrew all its reservations to the Convention.

34. In addition, in earlier reports the Special Rapporteur highlighted other international human rights instruments that include the protection of women from violence. Among those provisions which combine to provide a normative framework which may be seen to protect women from domestic violence, the most relevant are the right to equality without distinction of sex; 14/ the right

to life, liberty and security of person; 15/ and that no one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment. 16/

35. Furthermore, General Recommendation No. 19 of the Committee on the Elimination of Discrimination against Women (CEDAW) and the United Nations Declaration on the Elimination of Violence against Women are important developments in international human rights law in the protection of all the human rights of women. The Declaration specifically affirms that violence against women in the family is a violation of international human rights standards and calls on all States to exercise due diligence to prevent, investigate and punish acts of violence against women, whether those acts are perpetrated by the State or by private actors. The due diligence standard is held out as a measure of evaluating a State's responsibility for violations of human rights by private actors, whether in public or private life.

B. At the regional level

36. Brazil is also a signatory to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará) and, therefore, bound by its obligations to the regional instrument. The Convention defines violence against women as "any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or private sphere" (art. 1). Like the United Nations Declaration, the Inter-American Convention includes violence in the family as one of the categories of violence against women. The Inter-American Convention, however, has a broader definition of violence in the family and explicitly includes people involved in an interpersonal relationship who are not necessarily living together.

37. The Convention also calls upon States to take measures to eradicate violence against women, including law reform, sensitizing of the criminal justice system, providing community support, and promoting awareness of the right of women to be free from violence.

38. Chapter IV of the Convention sets out the mechanisms of protection provided by the Convention. Under article 10, States parties have an obligation to include in their national reports to the Inter-American Commission on the Status of Women information on the measures they have taken with regard to eradicating violence against women and in assisting women victims of violence. The Convention also provides an individual right of petition and the right of non-governmental organizations to lodge complaints with the Inter-American Commission of Human Rights. The Commission is then obligated to consider such claims within the framework of its jurisdiction, applying the principles contained in the Convention. In creating this mechanism, the Convention became the only instrument, regional or international, to provide for individual relief for women victims of violence.

C. At the national level

39. The 1988 Federal Constitution of Brazil contains a provision on domestic violence. Article 226(8) provides "The State shall guarantee assistance to the family, as represented by each one of the persons that makes up that

family, by creating mechanisms to deter violence in the framework of the relationships among those family members". Brazil does not, however, have comprehensive legislation on domestic violence. Acts of domestic violence fall into criminal categories such as "bodily harm or corporal lesions to someone's physical integrity or health", 17/ "extremely aggravated battery", 18/ "threats", 19/ "private incarceration", 20/ or "murder". 21/ Marital rape is not specified as a crime, although the Special Rapporteur was informed that it could technically be considered a crime under the penal provisions for rape. 22/

40. At the time of the mission of the Special Rapporteur, there were legislative bills before Parliament attempting to address domestic violence as a separate category of crime. 23/ It was argued by many commentators that the current Penal Code, drafted in 1940, is insensitive to the needs of women. Changing values and perceptions of the status and rights of women are not incorporated in the Code. As a result of systematic lobbying by women's groups, at the time of the mission there were also attempts by parliamentarians to revise the Penal Code by making specific reference to domestic violence. Such draft legislation contains a new definition of what is termed "family violence" which, drawing from the United Nations Declaration on the Elimination of Violence against Women and the Inter-American Convention, includes physical, sexual and psychological violence. The bill also provides for the establishment of shelters for victims of violence and programmes for the rehabilitation of perpetrators. The Special Rapporteur notes, however, that the concept of protection orders for women victims of violence, a mechanism used in the Anglo-American systems of law, is not incorporated in the draft legislation shown to the Special Rapporteur.

41. In some common law countries, new remedies, under diverse names such as injunctions, interdicts and protection orders, have been introduced to provide for more comprehensive civil forms of relief in cases of domestic violence. Many activists working in the field argue that the criminal justice system is not the only appropriate site to combat domestic violence. Others insist that the criminalization of domestic violence should not be compromised. In the vast majority of countries, domestic violence is a crime only on paper with very few criminal proceedings being brought against the perpetrators of domestic violence in reality. Recent reforms in the Commonwealth legal system have attempted to answer this dilemma by combining civil remedies with criminal sanctions. Measures have been introduced into the criminal law system to provide for provisions which clarify police powers of arrest, bail and charging. In addition, civil remedies exist that require the abusive husband to leave the marital home and forbid his presence within a specific distance from the residence. The civil remedies also provide for incidental orders about shared possessions, visiting rights and financial support.

42. Legislators and non-governmental organizations the Special Rapporteur spoke to in Brazil were optimistic that some form of legislation on the specific crime of domestic violence would be passed by the legislature in the near future. In this regard, the Special Rapporteur holds that it would be useful to consider civil remedies, as spelled out above, which will assist battered women in maintaining a home and a source of income.

43. Some non-governmental organizations raised the issue of the "honour defence" (**defensa de la onra**) or "crime of passion", which used to justify wife murder in Brazil. 24/ During the colonial period, a man who caught his wife in the act of adultery and killed her or her lover, could use the argument of "honour defence". Although the Brazilian Penal Code had abolished such a defence in 1830, it was often used in practice to acquit husbands charged with murder. As a result of awareness-raising and agitation by women's groups, this practice has largely been discontinued.

44. In 1991, the Brazilian Supreme Court overturned a decision by the lower courts, maintaining that murder is not a legitimate response to adultery and ordering a retrial. 25/ The facts of the case lent themselves to a recourse to the "honour defence". João Lopes, having spent two days searching for his wife Terezinha, found her in a hotel room with her lover José Gaspar Felix. Lopes stabbed and killed the lover and then chased his naked wife into the street and stabbed her to death. The initial jury unanimously absolved him of the double murder. When the case was retried after the superior court verdict, the jury again acquitted Lopes despite the ruling of the Supreme Court. The verdict was seen by many as a "victory of social prejudice over the rule of law". 26/

45. Many women's groups informed the Special Rapporteur that the "honour defence" is often used, predominantly by defendants from social classes with access to good legal services, after the defence had exhausted all other legal arguments. The defence was accepted by courts in the 1970s and 1980s as a judicial construction related to the argument of self-defence, a reaction against "unjust aggression". Honour was seen as an asset of the man concerned, like his life or property, and he was given the freedom to use "necessary means" to defend his assets. In the Lopes case, however, the Supreme Court stated clearly that honour is not an asset and physical force cannot be used to defend it. Nevertheless, as all murder cases in Brazil require a jury trial, many commentators argue that even though the law and judicial authority have changed in recent times, juries often acquit men who commit murder on the grounds of the wife's adultery. It is said that especially in rural areas, in the interior of the country, the "honour defence" is more widely used in such cases.

46. Women's groups also argue that the sentences of men who commit wife murder are frequently reduced by pleading "violent emotion", "temporary insanity" and "unjust provocation", in accordance with article 28 of the Brazilian Penal Code, resulting in what is termed "privileged homicide". It is important to note that under the Brazilian Penal Code "privileged homicide" carries a sentence of only 1 to 6 years' imprisonment while homicide per se requires 12 to 30 years in prison. Women's groups believe that such sentences are used even in cases where there has been substantial pre-meditation. 27/ Their research seems to indicate that the same attenuating circumstances are, however, not accepted when wives murder their husbands. Women's groups are firmly convinced that the sentencing practices among the judiciary in Brazil indicate unequal treatment of men and women in connection with murder of spouses, 28/ requiring more narrowly defined judicial standards so that the discretion of judges will be more limited and instructions to the jury will be more directive.

IV. THE POLICE

47. The criminal justice system plays a major role in combating domestic violence. The police, in particular, constitute the most important State agency in this regard, as well as the first refuge sought by women victims of violence. In the Brazilian federal system, the federal police are responsible for investigating federal and international crimes. The State police are primarily responsible for law and order matters, including domestic violence. It is noted that the Brazilian State police have two branches, namely civil and military police. The civil police have responsibility for inquiries and investigations, whereas the military police are mandated to patrol streets and to deal with law enforcement and public security. In a situation of domestic violence, therefore, military police officers may be the first on the scene since they are responsible for public order; the actual investigation, however, will be conducted by the civil police.

48. In 1985, as a result of a campaign waged by women's groups, the Governor of the State of Sao Paolo, Franco Montoro, created the first woman's police station (delegacia especializada de atendimiento à mulher or DEAM) in Sao Paolo. This police station was established as part of a general public safety policy of the State government. In 1996, there were 152 women's police stations nationwide, of which 124 were in Sao Paolo, 5 in Rio de Janeiro and 1 in Brasilia. The Special Rapporteur notes, however, that there are no women's police stations in the interior of the country.

49. There is general agreement that the number of such police stations should be increased. Rural and indigenous women, for example, do not have the same access to police stations as their urban counterparts and even in urban areas access seems unequal. In Rio de Janeiro, for example, there are five specialized women's police stations, of which four are located in low-income areas, one in a mixed neighbourhood and none in the high-income areas. The belief that violence against women is an urban, low-income phenomenon appears to be widely shared by policy makers despite statistical evidence to the contrary.

50. It is important to note that despite the existence of women's police stations, the bulk of domestic violence cases are still reported to regular police stations. In Rio de Janeiro, for example, in 1995, of the 23,625 reported cases of violence against women, 5,791 were reported to the 5 DEAMs and 17,834 were reported to the other 140 police stations. In the same vein, and according to the head of one police station in Rio de Janeiro, women's police stations receive 12 to 14 cases a day while many women victims appear to go to the regular police stations located in their neighbourhood. 29/ It is, therefore, important to realize that in addition to establishing more women's police stations, other police officers must also be sensitized to women's issues.

51. It is also interesting to note that in the past DEAMs had no competence with regard to questions of murder and suicide, so that the controversial cases of wife murder described earlier have not been investigated by DEAMs. Many of the heads of DEAMs informed the Special Rapporteur that murder and suicide resulting from domestic violence should also be included in their competence, so as to grant DEAMs equal status within the police force. In this

regard, the Special Rapporteur is pleased to note that, since April 1996, DEAMs in Sao Paolo have been given the authority to investigate homicides of women victims of violence.

52. All heads of DEAMs who the Special Rapporteur spoke with were in agreement that domestic violence cases accounted for the vast majority of cases registered with women's police stations. In Brasilia, the head of the women's police station said that they received 60 cases of violence against women per day, 70 per cent of which were caused by domestic violence. 30/ She also argued that the attitudes of women with regard to reporting cases of domestic violence had changed over time and that women victims of domestic violence were now less stigmatized than before. In 1991, when the women's police station in Brasilia was initially set up, there were 600 cases of domestic violence, as compared with 6,800 cases in 1995. 31/

53. The Special Rapporteur received data from an interesting survey conducted at women's police stations in Sao Paolo on the social profile of women police officers responsible for violence against women cases: 51 per cent were between the ages of 30 and 39; 53 per cent were single and 94 per cent were white; 95 per cent had never attended training/sensitization with regard to issues of violence against women. All women officers, like their male counterparts, had some legal background which was a prerequisite for employment. It is interesting to note, however, that only 57.8 per cent of the police officers had chosen to work at a women's police station; the rest were placed at DEAMs, although they preferred to work at regular police stations. These statistics reveal a pressing need to make the Brazilian police more representative in terms of its social composition, especially in terms of race.

54. Another factor brought to the attention of the Special Rapporteur was that women's police stations are generally not serviced for 24 hours, but from 9 a.m. to 5 p.m. only. In fact, only the DEAM in Sao Paolo is open 24 hours. The Special Rapporteur considers the lack of police personnel during the night to be particularly disturbing, since domestic violence, according to the above-mentioned studies, takes place primarily at night, and limited opening hours require that a woman victim wait until the morning to make her complaint. Even the military police responsible for public order are only able to accompany the woman victim to a safe place for the night before she goes to the women's police station.

55. The Special Rapporteur was informed that the argument for limited opening hours is purely a financial and human resource question. In Sao Paolo, each DEAM has only 24 officers while regular police stations have 60 and are, therefore, able to provide 24-hour services, since five teams of police officers working different shifts are required for around-the-clock working hours.

56. The atmosphere which greets a woman victim of violence when she enters a women's police station varies greatly from station to station. In Brasilia, for example, the women's police station deliberately attempts to seem accessible and homey, through simple means such as paintings, plants, and by providing women victims with water or coffee on arrival. The DEAM in the Distrito Federal has a rape telephone hot-line, a video library and leaflets

on domestic violence and rape. Such a welcoming and human atmosphere is an important factor leading to a high incidence of reporting of crimes of violence against women, that is 60 cases per day.

57. In Rio de Janeiro, on the other hand, despite the attempts by the head of the police station to convey a sympathetic atmosphere, the location of the station directly above a high-security male prison for perpetrators of homicide and drug offences in itself greatly discourages women victims from coming to the station. Furthermore, the presence of 600 male convicts in the same building as the women's police station also makes it an unsafe environment for women victims of violence. As a result the police station only receives 12 to 14 cases of violence against women per day. It is, therefore, evident that the need to develop a confidence-building environment at police stations for women victims of violence is absolutely necessary if women are to be encouraged to report crimes committed against them.

58. Generally speaking, however, the Special Rapporteur encountered widespread agreement that women's police stations are very important institutions. Women victims prefer to tell their stories to female officers, since they believe that their complaints will be taken more seriously and that women police officers will give them a fair hearing. The Special Rapporteur, however, noticed that in most police stations, women are required to make their statements in very public spaces. It is regrettable that the need to ensure a measure of privacy so that women victims can speak more easily has not been taken into consideration in planning women's police stations.

59. The procedure for reporting cases is similar in all DEAMs. Upon arrival, the victim is requested to fill out a registration form. In case of body lesions, she is required to have an examination at the Medical-Legal Institute, often situated in another part of the town, and then to return to the police station with the medical report. If the victim has slight injuries, her case can be investigated directly by a court; cases of serious injuries must be investigated by the police. In the latter situation, the victim makes a declaration before a notary. In some women's police stations, there is a psychologist on duty to provide counselling.

60. After the standard reporting procedure, the victims, in most cases, have to find a place to stay for the duration of the investigation process; those with no other option return home, to the site of domestic violence. In this context, the Special Rapporteur is very concerned that in Brazil there are only a very few shelters to accommodate women victims of violence.

61. At the conclusion of the police investigation, the aggressor is summoned to the police station, where his statement is taken and, sometimes, a warning is issued. In some police stations, the interview with the aggressor is videotaped. If the necessary evidence exists, the case proceeds to court. The Special Rapporteur noted that, in some police stations, the women victims are allowed to withdraw their charges upon reconciliation with the aggressor, but in others there exists a general rule that, although women victims may withdraw their complaints in a first-time case, upon re-offending the aggressor is immediately charged and brought to court. 32/ The persistence of the police in cases of domestic violence is an important factor in the success of victims seeking redress.

62. Even though the creation of women's police stations is generally seen as a pioneering attempt to combat violence against women, there are, within Brazil, several schools of thought in this connection. In some areas, there is a call to close down women's police stations. In fact, in Campinas, one DEAM was recently shut down by executive decree. It is argued that, instead of women's police stations, women's desks should be set up in regular police stations to address special problems of women victims of violence. The Special Rapporteur noted, however, that women's groups and some police officers did not support this idea since it was felt that issues concerning violence against women would be made subordinate to other crimes within a predominantly male police station, especially given the heavy workload of police stations in general. The women's unit at Nova Iguacu police station in Rio de Janeiro, for example, has only social workers on its staff who have to give way to other needs of the regular police station.

63. Despite the policy initiative to establish women's police stations, the Special Rapporteur was informed that DEAMs suffer from a perceived lower status within the police force, as alluded to above. The work of DEAMs is regarded by some police officers to be social work, not police work and there is a perception that police officers are sent to women's police stations for demotions, punishment or unsatisfactory performance. It should be noted that women were only brought into the Brazilian police force after 1978. Even though the establishment of DEAMs created opportunities for women police officers to head police stations, it appears to marginalize them in the profession. The Special Rapporteur is, therefore, of the opinion that there is a need to enhance the value of women police officers who work at women's police stations by, for example, initiating an internal incentive or credit scheme for women officers who opt to work at DEAMs. It is encouraging that many female officers heading DEAMs are determined to actively counter the negative image people have of them.

64. In all the DEAMs the Special Rapporteur visited, it was clear that they were not receiving adequate resources to carry out their work, especially in terms of police vehicles, personnel, computers, social workers, psychologists and programmes for therapy. It may be necessary for State governments to carry out a needs assessment with regard to the exigencies of the DEAMs in their jurisdiction and thereby plan for resource allocation to existing DEAMs, as well as for the creation of new DEAMs. If violence against women is as pervasive as the reported statistics seem to indicate, then a commitment to the eradication of that violence, starting with improved women's police stations, must surely be a national concern.

65. Furthermore, for the issue of violence against women to be dealt with effectively, there is a need to ensure a good measure of cooperation between women's police stations and women's groups. Even though there are active women's groups involved with DEAMs in some parts of Brazil, in other parts there exists little or no interaction. In response to this, some non-governmental organizations, such as SOS Mulher in Campinas, attempt to accompany women victims to register complaints at police stations to ensure that the police officers are more responsive to the needs of the women.

66. In addition, the Special Rapporteur is concerned that there does not seem to exist any comprehensive strategy to educate or train police officers, male or female, in dealing with domestic violence or violence against women in general. Many non-governmental organizations also commented on the fact that officers at women's police stations are not always sensitive to the issue of domestic violence, since it is simply not always enough to be female to be sensitive to treating women victims of violence. The head of a women's police station in Sao Paolo informed the Special Rapporteur that the police academy had responded to the demands of DEAMs for training by incorporating a component on domestic violence in the course curriculum. Since, however, the teaching materials for the course, prepared by their male colleagues, lacked a gender perspective in its approach, the training proved counterproductive with regard to sensitizing the police on issues of domestic violence.

67. The Special Rapporteur, however, noted with interest that, in September 1996, a training course on gender-specific crimes was to be introduced in the police training programme in Brasilia. Since the course was to begin only after the Special Rapporteur's visit, at the time of writing the present report no feedback with regard to the relevance and structure of the course was available. The Special Rapporteur is primarily concerned that any course on domestic violence in police academies to be effective should be designed with the help of women's groups and State Councils for Women's Rights, so as to ensure expert input. It is important that the course not only impart information but also sensitize the police with regard to the special problems resulting from domestic violence, such as requirements for social support services for women victims. An integrated, multidisciplinary approach may be the best structure, paving the way for the creation of multidisciplinary units located at women's police stations, which would provide comprehensive treatment to women victims of violence.

68. Ironically, the Special Rapporteur was informed, women police officers working at DEAMs are themselves often subject to sexual harassment by male members of the public. In one case in Brasilia, the head of the DEAM investigating a domestic violence case received photos of the genitalia of the infuriated husband, along with abusive letters and threats. The vulnerability of women to abuse because of their sexuality, regardless of the position they hold, is underscored by this incident.

69. At the time when women's police stations have been in existence for just over a decade, there has been, in some States, an attempt to evaluate and review their functioning. In April 1996, the Chief of the Civil Police of Rio de Janeiro appointed a Committee of the State Council of Women's Rights to carry out a study on the effectiveness of DEAMs in the State of Rio de Janeiro. The main conclusions of this report were that:

(a) Domestic violence, often exacerbated by the use of drugs or alcohol, was the most common form of violence against women in the State of Rio de Janeiro;

(b) Crimes against women were under-reported especially in favelas, the poorer areas and in upper-class neighbourhoods;

(c) Stigma was attached within the police force to those police officers working at DEAMs;

(d) Despite their shortcomings, DEAMs should continue to form an integral part of a public security and safety policy;

(e) Awareness-raising and mentality changes within the police force were required to ensure that women victims received appropriate treatment, and not merely police services, at DEAMs.

70. As a result of this evaluation, there is now increased cooperation between women's police stations and public defenders, providing women with better access to legal services. Furthermore, each DEAM in Rio de Janeiro received an increase in resources, including a new police car. In addition, a permanent evaluation and monitoring committee which will look into the needs and requirements of women's police stations in the State of Rio de Janeiro will be established.

71. The Committee also recommended that a DEAMs coordination unit be set up to work with the Chief of Police to ensure improved services. An appointment has been made but the unit is still awaiting financial allocations. In addition, the Committee suggested that existing DEAMs should receive more staff and that new DEAMs should be created in regions where the incidence of violence against women are high. The Committee also recommended that:

(a) DEAMs should attempt to raise funds from the private sector to cover costs associated with their special needs;

(b) Specialized violence against women training should be incorporated into the police academy training;

(c) DEAMs should work closely with the judiciary, other police and social workers;

(d) Shelters for women victims of violence should be created to house women with no alternative accommodation;

(e) Staff of Medical-Legal Institutes should be sensitized to the treatment of women victims of violence.

V. HEALTH POLICY AND SHELTERS

72. The procedure of sending women victims to the Medical-Legal Institute from the police station and having them return was severely criticized by many activists and officials. It appears that the Medical-Legal Institute has a monopoly with regard to providing forensic evidence for women victims of violence. Many commentators feel, however, that the doctors in these Institutes do not possess training in problems associated with women victims of violence. In addition, it is argued that many women victims who are required to travel by themselves to the Institute from the police station after having been victimized are simply discouraged and go home. Some officials suggested that there should be a unit of the Medical-Legal Institute, with specialized training in dealing with violence against women,

attached to women's police stations. Others suggested that such a unit be established in all major hospitals to facilitate access for women victims. Furthermore, since many women victims of domestic violence go to hospital and not to the police station, medical staff should be sensitized to recognize signals of domestic violence, so that they are able to guide the patient accordingly. 33/

73. National and State-level health policies should take into consideration the special problem of violence against women since at present no special health policies or programmes appear to exist. Officials at the Ministry of Health confirmed that violence against women is not addressed systematically by the health system. It was acknowledged that there existed a need for a women's health programme to be initiated at federal and State levels. 34/ Ironically, the majority of the members of the medical profession, according to sources in the Ministry of Health, are women, but without training in the special concerns and needs of women victims of violence, it is unlikely that they will be more sympathetic than their male counterparts.

74. Of all the cities that the Special Rapporteur visited, only Sao Paolo had a municipal shelter, with 50 places, for battered women and their children. In Brasilia, legislation exists with regard to shelters but none have actually been set up. In Porto Alegre, there exists a clean and welcoming shelter, "Viva Maria", financed by a non-governmental organization. The Special Rapporteur considers that the shortage of shelters for battered women is one of the most pressing issues with regard to violence against women in Brazil. Many women victims leave their homes with no place to go and, as mentioned above, are forced to return to the abusive relationship as a result of economic dependence and lack of shelters. The need to allow women victims the space and time to consider their future with regard to dealing with the issue of domestic violence requires that shelters be established as a matter of priority, in secluded, private locations which are inaccessible to the batterer. The Special Rapporteur strongly urges that more shelters be set up either by the municipality or by non-governmental organizations so that women victims of violence are enabled to start a new life.

VI. THE GOVERNMENT

A. The judiciary

75. According to one expert, only 2 per cent of male perpetrators of violence against women are actually convicted and sentences in cases of domestic violence are often for less than one year. 35/ It is that expert's belief that the sentencing structure with regard to judicial decision-making leaves much to be desired and does not serve as an effective deterrent to perpetrators. It is believed that, in cases involving violence against women, members of the judiciary do not judge criminal behaviour but the social role of the perpetrator and the victim. 36/ The "honour defence", as discussed above, is an example of how the judiciary is influenced by social attitudes regardless of the law. Women's and human rights groups have documented many case studies in which social biases, attitudes and gender-stereotyping have affected judgements. 37/ If a woman is portrayed as a good, submissive, sexually inactive housewife, the chances for the conviction of her batterer

are greater. If, on the other hand, the woman victim displays independence and there are any hints of sexual impropriety or "loose" sexual mores, it is very unlikely that her batterer will be convicted.

76. This tenor of judicial opinion is incongruous since there appears to be a process of "feminization" of the judiciary currently taking place. Whereas, 64 per cent of the judiciary are women, 38/ it is also true that female judges and lawyers are frequently not in criminal practice. 39/ Officials in State Councils for Women's Rights constantly emphasized that there was a need to sensitize the judiciary with regard to problems associated with violence against women. There was, however, hesitation as to how to carry out such a process. Federal officials were very clear that it is not within their jurisdiction to train judges with regard to domestic violence, for fear of compromising the independence of the judiciary. 40/ The need to devise a programme addressing the judges' response to violence against women in Brazil is, however, imperative. Such a programme should be developed in consultation with the judiciary, so that any implications for the independence of the judiciary and undue influence of the executive are avoided.

77. During discussions with the National Council of Women in Brasilia, the Special Rapporteur was informed of a proposal by the Council for special circuit courts for domestic violence within the Federal District. The Minister of Justice, when broached about this subject, argued, however, that special domestic violence courts would not be effective since their establishment would lead to discrimination in the area of women's rights within the judiciary. The existence of such courts would serve as an excuse for other courts not to take action with regard to domestic violence. The Minister argued that instead there should be attempts to make present procedures more effective and to raise awareness among regular judges on issues related to domestic violence. The Ministry of Justice is also trying to promote alternative sentences and rehabilitation programmes for perpetrators of domestic violence, since such actions are felt to be more effective than imprisonment. 41/ The Special Rapporteur considers that, if specialized courts were to be created, to be effective this should be done on a nationwide scale. There are, however, not enough resources for such a programme and it seems unlikely that the Ministry of Justice would agree to the proposal.

B. The legislature

78. In recent years, the Brazilian legislature has taken many initiatives regarding violence against women at federal and State levels. The National Congress voted on a specific budget allotment for the National Women's Rights Council with particular reference to domestic violence. In addition, the Chamber of Deputies of Congress is considering Bill of Law No. 4,429 (1994) on crimes against sexual freedom and Bill of Law No. 132 (1995) on family violence, as referred to above. In 1993, as already mentioned, the House of Representatives established a Parliamentary Inquiry Commission to investigate the issue of violence against women in Brazil. During the Special Rapporteur's discussions with members of the legislature, it was apparent that many were committed to a revision of the Penal Code for the benefit of women victims of violence and the adoption of special legislation on family violence.

C. The executive

79. The executive arm of the Government of Brazil, in response to the social activism of women's groups in Brazil both at federal and State levels, has developed a plethora of programmes aimed at raising awareness with regard to violence against women. At the level of the Federal Government, the Ministry of Justice has launched a National Plan for Human Rights in September 1995, one of the priority areas of which addresses violence against women. This attempt to articulate violence against women as a human rights issue is particularly welcome.

80. The principal body concerned with women's rights at the federal level is the National Council for Women's Rights. Although established 10 years ago, it is since May 1995 that the National Council has specifically addressed the issue of violence against women. On 8 March 1996, International Women's Day, the National Council launched a National Programme to Prevent and Combat Sexual and Domestic Violence. The programme has preventive objectives, such as public information campaigns, with a view to changing prevailing social attitudes towards violence against women. In cooperation with the Ministry of Education, the National Council is attempting to screen video and television programmes on violence against women on the national school television network.

81. In addition to the preventive aspects, another objective of the National Programme is targeted at the judiciary, the legislature and at the reorganization of women's police stations. Bearing in mind that the police fall under the jurisdiction of the Ministry of Justice, the National Council, through the Ministry, hopes to lobby for increased human and financial resources for DEAMs to develop programmes with regard to training police officers and to provide career incentives for women officers at DEAMs. The National Council will also attempt to establish free legal advisory services for women victims of violence. In addition, it is proposed to establish special public defendant's offices and special courts for domestic violence crimes, as already mentioned above. The National Council is also in the process of improving the complaints registration procedures with regard to domestic violence by, for example, allowing for the possibility of filing complaints in hospitals. A review of the Penal Code with a view to stricter sentences for crimes of domestic violence is also being promoted.

82. The National Programme is funded by the Inter-American Development Bank (IDB) and through a specific allotment from the National Congress. The National Council also hopes to elicit support from the private sector in its effort to eradicate violence against women. In the State of Minas Gerais, for example, a private company provided funding for the printing of car bumper stickers reading "Don't run over women's human rights". 42/

83. The State Council for Women of the Federal District of Brasilia has also launched a programme to combat and prevent violence against women. The objective of the programme is initially to mobilize society by establishing regional forums through committees in each of the 19 administrative regions of the Federal District. A media campaign was also launched with effective television advertisements carrying slogans such as "Violence against women

is a crime. Denounce it" or "Denounce it. Silence is the accomplice of violence". In addition to mobilizing civil society through such forums, there is an attempt to lobby government with regard to additional programmes on violence against women. In this regard, the State Council hopes to create a violence against women hot-line to meet the complaints of lack of resources and personnel coming from the women's police stations. Since there is only one women's police station in the whole Federal District, the State Council also aims at strengthening and coordinating women's units at regular police stations.

84. Furthermore, the State Council will attempt to establish a women's support centre to provide legal advice, psychological support and counselling for women victims of violence. There will be a programme of job training for women victims with the aim of building up their confidence and empowering them through economic self-employment projects. The Council is also envisaging a paralegal advisory project modelled on UNIFEM's paralegal project THEMIS in Porto Alegre. In addition, the State Council hopes to focus on sex education and the elimination of "machismo" culture in schools. 43/

85. The State Council for the Status of Women of Sao Paolo is also very active and has an extensive programme with regard to combating violence against women. The State Council in Sao Paolo was the first State Council for Women's Rights to be established in Brazil in 1984. It consists of 32 counsellors drawn from civil society and State secretariats. In response to the demands of the State Council, the Sao Paolo State government established three working groups to study women's issues with regard to labour, health and education. The Special Rapporteur is particularly pleased that, on 22 July 1996, in a meeting with the Special Rapporteur, the Governor of the State of Sao Paolo, Mr. Mario Covas, established by decree an inter-secretariat working group on violence against women within the State Secretariat for Safety and Security. The working group will consist of representatives of the State Secretariats of Health, Justice, Education, Prison Administration and the State Council for the Status of Women. As this was a concrete result of the Special Rapporteur's visit, it was welcomed as an important event. The working group was requested to submit strategies to combat violence against women to the Governor within 90 days. In addition, the Governor stated that he would accord special importance to the Special Rapporteur's recommendation to establish shelters for battered women in the State of Sao Paolo.

86. The special programmes of the National and State Councils for Women's Rights of Brasilia and Sao Paolo were extremely encouraging but unfortunately they underscored the fact that such programmes are unevenly distributed. Not all State governments have a State Council for Women's Rights nor programmes to eliminate violence against women. Even in the States where such councils or programmes exist, there also exists a discrepancy between urban and rural, black and white. Furthermore, since many of the programmes mentioned above were only initiated in 1995 or 1996, the Special Rapporteur was not in a position to gain a direct sense of the impact of these campaigns and whether they have played a major role in the eradication of domestic violence in Brazilian society. Nevertheless, they should be welcomed as sincere efforts to deal with the problem of eradicating domestic violence.

VII. NON-GOVERNMENTAL ORGANIZATIONS AND WOMEN'S GROUPS

87. The Special Rapporteur was extremely impressed by the work and commitment of Brazilian non-governmental organizations and women's groups active in the area of violence against women. She had the opportunity to meet with many such groups and was briefed on their work with regard to the problem of domestic violence.

88. CFEMO (Centro Feminista de Estudos e Assessoria) is a feminist non-governmental organization established in July 1989 in Brasilia, with the objective of providing a bridge between women's groups and the legislative process. CFEMO reviews and monitors the legislative process at Congress with the aim of keeping women's groups informed about current developments, and lobbies parliamentarians for changes in legislation. CFEMO uses newsletters and faxes to keep the public informed of legislative changes and initiatives. CFEMO cooperates with Congress on the revision of the Penal Code and was at the time of the mission monitoring several bills on domestic violence which were before Congress. It is also actively involved in lobbying Congress with regard to the implementation of the Beijing Platform for Action.

89. Another women's group with which the Special Rapporteur met is NEPEM (Nucleo de Estudos e Pesquisas sobre a Mulher) at the University of Brasilia. NEPEM has conducted scientific research on domestic and sexual violence against women using material from DEAMs, disaggregating data according to age and type of crime. In addition, NEPEM has carried out research into the social concept of violence against women through surveys at the Central Bus Station in Brasilia with the aim of highlighting societal attitudes towards rape. As part of its survey, NEPEM interviewed police officers and women victims of violence, as well as sexual aggressors in prisons. NEPEM is aiming to work with community leaders to understand and analyse social attitudes with regard to violence against women through case-studies of rape and domestic violence. Some conclusions arrived at by NEPEM are that a majority of the public are not concerned with violence against women and that perceptions with regard to violence against women vary with social class. It is also concluded that the establishment of DEAMs has already helped to raise public awareness of domestic violence as a crime to be denounced. NEPEM was particularly concerned that violence against women be regarded as a human rights violation, as well as a health issue for women. On-the-spot counselling at police stations was also proposed so that women victims could overcome their fears of bringing action against the perpetrator.

90. The Pan-American Health Organization and the Inter-American Development Bank (PAHO/IDB) operate a regional programme for eliminating violence against women with the objective of attaining equal levels of health for men and women, which recognizes that violence against women is one of the biggest obstacles to higher health standards. PAHO/IDB work with selected hospitals by training medical staff to treat women victims of violence and also attempt to set up a "network of care", such as "one-stop centres", which will deal with all aspects of physical and psychological health of the victim.

91. CEPIA of Rio de Janeiro is one of Brazil's pioneering non-governmental organizations leading the campaign to eliminate violence against women by engaging in research, as well as in social action. CEPIA spearheaded

the 1980s campaign against "honour defence" in cases of wife murder which led to a significant change in attitudes in such cases. CEPIA continues to lobby for changes in legal attitudes especially with regard to other defences used by perpetrators of violence against women such as the provocation or violent emotion defences. Research carried out by CEPIA attempts to comprehensively analyse the social context and history of violence against women in Brazil.

92. PRO MULHER is a non-governmental organization in Sao Paolo working directly with women victims of violence. PRO MULHER has psychologists, social workers and lawyers who provide legal advice, counselling and mediation for couples suffering from domestic violence. The mediation programme at PRO MULHER appears to be an extremely successful one. The Special Rapporteur was introduced to a couple who had gone through mediation and who thereafter reconciled. The male batterer, who spoke at length with the Special Rapporteur, had obviously undergone a transformation after the PRO MULHER programme. The possibility of mediation in cases of domestic violence without recourse to penal law appears to have been successfully employed in individual cases. However, the question remains as to whether the batterer should not be subject to criminal proceedings and thereafter enter a programme of rehabilitation and mediation.

93. When a victim seeks help from PRO MULHER, her individual grievances and needs are identified. She then meets with a guidance group of lawyers, social workers and psychologists during four sessions a month and is advised on how to reorganize her and her family's life. A lawyer will provide her with advice on the course of legal action but in many cases the victim is referred to family mediation, where she is counselled along with members of her family. PRO MULHER has also established contacts with local judges and all settlements that PRO MULHER facilitates are recorded in court.

94. The Special Rapporteur also met with the Coordination of Women's Affairs in Santos, Sao Paolo, which provides women with support services and legal, social and psychological counselling. The Coordination has so far dealt with 2,350 clients. It also works with aggressors with regard to rehabilitation. With regard to prevention, it issues information booklets and holds lectures and discussions with regard to the problem of domestic violence.

95. During her mission, the Special Rapporteur held interesting discussions with Gélèdés - Black Women's Institute, in Sao Paolo. Initially established to combat racism in Sao Paolo through the programme "SOS Racism", by providing legal support for women victims of racial discrimination, Gélèdés has discovered that over 50 per cent of women seeking help are victims of sexual abuse and domestic violence. As a result, Gélèdés has started to train its legal personnel to adapt to the demands of domestic violence victims whilst reconsidering how it should revise the objectives of the organization so as to meet the exigencies of women victims of domestic violence. The Women's Association of Black Culture in Porto Alegre is another organization aiming to address the special problems of black women by providing them with leadership and political awareness.

96. SOS Açao Mulher, in Campinas, started over 10 years ago as a telephone helpline for women victims of violence. Now it is a fully fledged organization geared to the needs of women victims of violence. Fifty per cent of referrals come from the sole DEAM in Campinas. The other 50 per cent come from private sources or from hospitals. After an initial interview with a trained psychologist and a social worker, women victims are referred to lawyers and psychologists for advice. They are also requested to attend group sessions: one with the Legal Group dealing with legal orientation and one with the Support Group dealing with psychological readjustment.

97. SOS Açao Mulher is currently campaigning for the establishment of a women's shelter in Campinas. Despite a meeting with the Mayor of Campinas, nothing had materialized as of the time of the Special Rapporteur's mission. Arguing the case for the urgent need for a shelter, SOS Açao Mulher described the case of a woman with 11 children who was beaten up by her husband when she tried to stop him from abusing their 12-year-old daughter. SOS Açao Mulher, for lack of a shelter in Campinas, sent her to Sao Paolo since her husband threatened to kill her, but she returned to Campinas and was stabbed to death by him. Another case concerned a young woman with a 3-year-old child who wanted to escape from an abusive relationship. With the help of SOS Açao Mulher she moved into her sister's house. After a week, however, when she went home to fetch some clothes for the child, her husband strangled her. The Special Rapporteur cannot but repeat her urgent request to the Government of Brazil to establish shelters for women victims of violence in all States.

98. THEMIS, as already mentioned above, is a pilot project funded by UNIFEM in Porto Alegre, which engages in training community leaders as paralegal advisers (promotores públicos) to assist women victims of violence in their communities. It provides legal counselling, accompanies women to court cases and attempts to build solidarity within the community to prevent violence against women. Since 1993, 85 paralegals have been trained. THEMIS also provides for an information service on violence against women (SIM) for women within the community. THEMIS also attempts to sensitize the local judiciary through seminars, lectures and campaigns and conducts its advocacy through the use of international human rights instruments. THEMIS has also entered into partnerships with other community actors such as the police, social workers and the Medical-Legal Institute, thereby attempting to provide for a comprehensive support network for women. The Special Rapporteur noted that many groups in other States are attempting to replicate the THEMIS model as a result of its successes

VIII. CONCLUSIONS AND RECOMMENDATIONS

A. At the international level

99. It is only recently that domestic violence has been articulated and more widely recognized as a violation of women's human rights. It is, therefore, important that the ideas and concepts contained in the United Nations Declaration on the Elimination of Violence against Women are widely disseminated at the national level. United Nations bodies and agencies, such as the Crime Prevention and Criminal Justice Division at the United Nations

Office at Vienna, working with national criminal justice systems, should make systematic and concerted efforts to raise awareness about recent thinking with regard to domestic violence as a human rights violation and about the measures advocated to ensure the eradication of such violence.

100. The last decade has witnessed innovations with regard to the formulation of legislation on domestic violence and the enactment of procedures and regulations for its implementation. However, these innovations are often specific to countries and/or regions and very little effort has been undertaken at the international level to provide for a "clearing-house" for information on domestic violence. For example, experiments in common law systems in different countries are rarely exchanged for information with regard to civil law systems. It is, therefore, proposed that a clearing-house for information, perhaps located within UNIFEM or the Division for the Advancement for Women at Headquarters, be established to ensure that information on ways and means of combating domestic violence at the national level is shared and accessible to all countries.

B. At the regional level

101. The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women constitutes important international legislation in the field of women's rights. The Convention is comprehensive and also allows for individual relief at the regional level. It is noted, however, that information about the Convention is not readily available in countries which are not Spanish- or Portuguese-speaking. There should, therefore, be an attempt to disseminate information about the Convention to other regions so that similar initiatives may be undertaken by other regional organizations, such as the Organization of African Unity and the Council of Europe.

C. At the national level

102. Although the Special Rapporteur noted the many innovative programmes in Brazil for the elimination of violence against women, such initiatives appear to be concentrated in certain areas of the country, in particular in more urban centres. It is important to devise an integrated strategy which would allow for the implementation of such programmes, such as women's police stations, in all parts of the country. Regional disparities and differences in race and income should not affect the planning of programmes and initiatives to combat violence against women throughout the country.

103. Although Brazilian penal law provides a framework for combating domestic violence, efforts to formulate special domestic violence legislation are welcomed. Such legislation should not only spell out substantive provisions with regard to the crime of violence against women but should also include directions and guidelines for the police and possibly also the judicial authorities on measures necessary for prosecution and punishment. In addition, such specialized legislation may provide for civil remedies, such as protection orders, so that women are able to seek relief without necessarily initiating criminal proceedings against the perpetrators.

104. Although the so-called "honour defence" is not supported by legislation and has been ruled unlawful by the judiciary, the Special Rapporteur noted that jury trials still result in the acquittal of perpetrators based on the "honour defence". Where feasible, it may be necessary to initiate a legislative process which would lead to more narrowly defined judicial standards with regard to instructions to the jury so that aggressors who commit violence against women are sentenced as criminals.

105. The existence of women's police stations is a positive aspect in the campaign to eliminate violence against women in Brazilian society. However, it may also be necessary to strengthen the capacity of women's police stations to enable them to actively intervene to ensure protection for women victims of violence. Among the measures that may be suggested are the following:

(a) Women's police stations should be established in all parts of Brazil, not only in urban areas or in certain neighbourhoods within these urban areas. Access to relief from domestic violence should be available to all Brazilian women, regardless of income, ethnicity or geographical location;

(b) The competence of women's police stations to investigate serious crimes, such as murder and suicide, should be expanded, as was done recently in the State of Sao Paolo. Expanding the competence of DEAMs would also help elevate the status of DEAMs within the police force;

(c) The social composition of women police officers at DEAMs should reflect the diversity of the local population of the areas in which they are situated. Such diversity will allow women's police stations to respond to the needs of all sectors of the Brazilian population;

(d) It is important to ensure that women's police stations operate 24 hours per day, so that women victims have immediate access to relief, especially at times when the incidence of domestic violence is high, i.e. at night and on weekends;

(e) It is important that the atmosphere at and surrounding women's police stations inspires confidence in women victims of violence. It is also necessary to situate DEAMs in safe and accessible areas. Special efforts should be made to allow for a measure of privacy for women victims to make their complaint;

(f) Since women's police stations have often become the focal point in a neighbourhood or district for cases of violence against women, they may be the ideal location for the creation of "one-stop centres" providing multidisciplinary services for women victims of violence. Women's police stations should also house a medical professional from the Medical-Legal Institute, specializing in violence against women. Access to and close cooperation with psychologists, social workers and lawyers and women's police stations should be promoted;

(g) Special measures, such as equal training and career incentives for those who chose to work at DEAMs, to increase the profile of women's police stations within the police force should be undertaken;

(h) Women's police stations should be allocated the necessary human and financial resources, such as vehicles, equipment and administrative personnel, to fulfil their mandate effectively. This would require that the police force reorganize its priorities so as to ensure that the problem of violence against women receives the attention that it deserves;

(i) Women's police stations should cooperate closely with non-governmental organizations and women's groups active in the field of violence against women, so as to ensure more effective support to women victims of violence;

(j) Regular police stations must also be sensitized to the many problems associated with violence against women, especially because regular police stations, for lack of women's police stations, still receive the largest number of domestic violence complaints. It is, therefore, necessary to make available training in handling domestic violence cases an integrated aspect of basic police training in Brazil, at both federal and State levels. Such training should be formulated taking into consideration existing manuals and documents that are internationally available, as well the expertise and knowledge of women's groups and professionals in Brazil working in this area. The need for a comprehensive course, as opposed to ad hoc training programmes, is seen as an essential component in any strategy to combat the problem of violence against women. Additional specialized courses may also be provided for police officers to be placed at women's police stations or at women's units within other police stations.

106. The need for issues of violence against women to be incorporated into a national health policy is also an important consideration. The formulation of a national health policy addressing violence against women in Brazil should include provisions for specialized training of medical personnel at Medical-Legal Institutes. In addition, members of the medical profession should be sensitized to the different criminal acts which may be perpetrated against their patients. Bearing in mind that the hospital is often the first place that a woman victim of violence goes to, a supportive and informed medical staff will greatly assist such women by advising the victims on possible courses of action and on referrals.

107. The dearth of shelters in Brazil for women victims of violence is an area of particular concern. It is important that the Government of Brazil, at the national and State levels, in cooperation with non-governmental organizations, take steps to establish shelters as a matter of priority. Funding for such shelters may be drawn not only from Government and donor agencies but also from elements of the private sector wishing to invest in charitable activities.

108. There seem to exist only a very few rehabilitation programmes for perpetrators of domestic violence in Brazil. Although criminalization of domestic violence and abuse is necessary as a violation of the human rights of women, it is also well accepted that aggressors need psychological help and counselling. In some countries, programmes for batterers are incorporated within the criminal justice process and the need to devise such programmes, in the long-term interest of the perpetrator, is worth considering. Given the high rates of domestic violence in Brazil, rehabilitation programmes may

result in significantly reducing the recidivism rate among batterers, which may lead to positive developments with regard to more general policy aimed at eliminating violence against women.

109. It became evident from the Special Rapporteur's discussions with various interlocutors that there exists a serious need to sensitize the judiciary with regard to the problem of violence against women. Such programmes, in the form of seminars and courses as part of judges' training, appear to be essential. In this regard, it may be necessary to invite judges from other jurisdictions with experience and involvement in problems of domestic violence to interact with the Brazilian judiciary on issues such as evidence, sentencing and instructions to the jury. Similar awareness-raising may also be necessary for public defenders and prosecutors involved in domestic violence cases.

110. In view of the relative success of specialized women's police stations in raising awareness and in assisting women victims of violence, the creation of specialized domestic violence courts, as advocated by some organizations, may constitute an important step in the attempt to eradicate violence against women in Brazil.

111. The Special Rapporteur was very impressed by the wealth of campaigns to eliminate violence against women carried out by the federal executive, along with some State governments. These initiatives which involved, not only the criminal justice system but all aspects of the executive including education, media, social welfare and other important ministries, seem timely and relevant. It is hoped that all Brazilian State governments will follow this lead and initiate campaigns to eliminate violence against women in all regions of the country.

112. Although it is evident that there is systematic gathering of data on violence against women, through the women's police stations and the work of some research and university institutes, it is important that such data are disaggregated appropriately and disseminated to policy makers to be used as a factual basis for imitating and devising relevant reforms and strategies. Government departments involved in census and statistics should also document and differentiate between short- and long-term trends related to domestic violence, so as to gain a more comprehensive picture and enable closer monitoring of incidents.

D. At the local level

113. The Special Rapporteur was most impressed by the variety of activities related to violence against women carried out by Brazilian women's organizations, non-governmental organizations and women professionals. The Special Rapporteur is aware that without their activism, none of the reforms that have taken place in Brazil over the last decade would have been possible.

114. The only concern that the Special Rapporteur wishes to share in this connection is the fact that the efforts by the non-governmental community, like those of Government, need to be extended in all their intensity to all parts of the country. The need to bring such activism to the interior of

Brazil and to other disadvantaged areas should be an important concern for future activities of non-governmental organizations. In addition, women's organizations, with few exceptions, do not appear to be concerned with the provision of certain social services, such as shelters, for abused women. The need to develop community-level infrastructure with regard to providing support for women victims of violence is also important and a necessary component of a comprehensive strategy. The Special Rapporteur hopes that more non-governmental organizations and women's groups will come forward and accept this challenge.

Notes

1/ Parliamentary Inquiry Commission, National report to the Fourth World Conference on Women (Beijing, 4-15 September 1995) "Relatório geral sobre a mulher na sociedade brasileira", December 1994, p. 59.

2/ Ibid, p. 57.

3/ Ibid, p. 60.

4/ Information received from members of the Legislative Front against Child and Adolescent Abuse, Congressional Human Rights Commission, Brasilia, 17 July 1996.

5/ Information received from women's police stations, State Council for Women's Rights, Rio de Janeiro, 19 July 1996.

6/ Information received from Ms. Maria Aparecida de Laia, President, Sao Paolo State Council for Women's Rights, Sao Paolo, 22 July 1996.

7/ Discussion with Dr. Heleieth Safiotti, Coordinator, National Investigation on Violence against Women, Sao Paolo, 21 July 1996.

8/ Discussions at NEPEM (Nucleo de Estudos e Pesquisa sobre a Mulher), University of Brasilia, Brasilia, 18 July 1996.

9/ Discussions with United Nations Development Programme (UNDP) officials, Brasilia, 15 July 1996.

10/ Discussions with Gélèdés - Black Women's Institute, Sao Paolo, 22 July 1996.

11/ Discussions with NEPEM, op. cit.

12/ Discussions with Iara Pietricovski and Rosane Kalingang, **Indian Women's Association**, Brasilia, 18 July 1996.

13/ Discussions with the Union of Household Employees (Conselho nacional dos trabalhadores domésticos do Brasil), Rio de Janeiro, 19 July 1996.

14/ Article 2, Universal Declaration of Human Rights (UDHR); article 26 of the International Covenant on Civil and Political Rights (ICCPR).

15/ Article 3, UDHR; articles 6 and 9 (1), ICCPR.

16/ Article 5, UDHR; article 8, ICCPR.

17/ Article 129 of the Brazilian Penal Code.

18/ Ibid.

19/ Article 147 of the Brazilian Penal Code.

20/ Article 148 of the Brazilian Penal Code.

21/ Article 121 of the Brazilian Penal Code.

22/ Article 213 of the Brazilian Penal Code; Law No. 8,069/90 and Law No. 8,930/94.

23/ Chamber of Deputies, Bill of Law No. 132 (1995), "Family violence", presented by Ms. Maria Laura and Ms. Marta Suplicy; Bill of Law No. 4,429 (1995), "Crimes against sexual freedom", presented by the Parliamentary Inquiry Committee on Violence against Women.

24/ For a comprehensive analysis of the "honour defence" in Brazil, see Human Rights Watch/Americas Watch, Women's Rights Project, "Criminal Injustice: Violence against Women in Brazil", New York, 1991.

25/ Decision of the Superior Tribunal de Justica, 11 March 1991.

26/ Human Rights Watch, op. cit.

27/ Ibid.

28/ Discussions with Ms. Jacqueline Pitanguey, CEPIA (Ciudadania, Estudo, Pesquisa, Informaçao e Açao), Rio de Janeiro, 19 July 1996.

29/ Discussion with Delegada de policía Lauren de Jesus C. de Faria, Substituta da delegacia de mulheres, DEAM Campo Grande, Rio de Janeiro, 19 July 1996.

30/ Conversations with Delegacía titular Deborah Souza Menezes, head of DEAM Distrito Federal, Brasilia, 16 July 1996.

31/ Ibid.

32/ Ibid.

33/ Conversations with Mr. Agop Kayayan, UNICEF Representative, Brasilia, 16 July 1996.

34/ Discussion with Mr. José Carlos Seixas, Executive Secretary of the Ministry of Health, Brasilia, 17 July 1996.

35/ Discussion with Dr. Heleieth Safiotti, op. cit.

36/ Discussions with Ms. Leila Linhares Barstead, Director, CEPIA, Rio de Janeiro, 19 July 1996.

37/ Human Rights Watch, op. cit.

38/ Discussion with Ms. Rosiska Darcy de Oliveira, National Council for Women's Rights, and Ms. Malak Popovic, Council of the Solidarity Programme, Brasilia, 17 July 1996.

39/ Discussion with Dr. Heleieth Safiotti, op. cit.

40/ Discussions with the officials of the Ministry of Justice and the Ministry of Foreign Affairs.

41/ Discussions with H.E. the Minister of Justice, Mr. Nelson Jobim, Brasilia, 17 July 1996.

42/ Discussion with Ms. Rosiska Darcy de Oliveira, op. cit.

43/ Discussions with Ms. Maria Ricardina Almeida and the State Council for Women's Rights of the Federal District, Brasilia, 17 July 1996.

Annex

LIST OF PRINCIPAL PERSONS/ORGANIZATIONS CONSULTED BY THE SPECIAL RAPPORTEUR

Brasilia

H.E. Sebastiao do Rego Barros	Minister for Foreign Affairs, a.i.
H.E. Mr. Nelson Jobim	Minister of Justice
H.E. Mr. Paulo Paiva	Minister of Labour
Mr. Jesse de Souza	Secretary of Citizenship Rights, Ministry of Justice
Mr. José A. Lindgren Alves	Director, Department of Human Rights and Social Issues, Ministry for Foreign Affairs
Ms. Arlete Sampaio	Acting Governor, Federal District
Mr. José Carlos Seixas	Executive Secretary, Ministry of Health
Ms. Emilia Fernandes	Senator
Mr. Vilmar Rocha Ms. Laura Carneiro Ms. Ceci Cunha Ms. Simara Ellery	Congressmen/women (inter alia)
Ms. Maria Ricardina Almeida	Head, Women's Council, Federal District
Ms. Deborah Souza Menezes	Chief Police Inspector, DEAM, Federal District
Mr. Armando López	WHO/Pan-American Health Organization (PAHO)
Mr. Agop Kayayan	UNICEF representative
Ms. Rosiska Darcy de Oliveira	Head, National Council for Women's Rights
Ms. Malak Popovic	Council of Solidarity Programme
Ms. Iaris Cortes	Centro Feminista de Estudos e Assessoria (CFEMEA)

Ms. Lia Machada Zanotta	Coordinator
Ms. Thely Carvalho Lopes	Researcher
Ms. Lourdes Bandera	Researcher, Nucleus for Research on Women (NEPEM), University of Brasilia
<u>Rio de Janeiro</u>	
Ms. Leila Linhares Barsted	Director, Ciudadania, Estudo, Pesquisa, Informaçao e Açao (CEPIA)
Ms. Jacqueline Pitanguy	CEPIA and Comité Latino Americano e do Caribe para a Defensa dos Direitos da Mulher (CLADEM)
Ms. Lauren de J.C. de Faria	Chief Police Inspector, a.i., DEAM, Campo Grande
Ms. Anna Maria Rattes	Director, Women's Rights Council (CEDIM)
Ms. Maria Conceiçao dos Santos	CEDIM
Ms. Nair Jane de Castro Loxima	Union of Household Employees
Ms. Candida Carvalheira	Psychologist
<u>Sao Paolo</u>	
Mr. Mario Covas	Governor, State of Sao Paolo
Ms. Maria Aparecida de Laia	Head, State Council for Women's Rights
Ms. Silvia Pimentel	Pontifica Universita Catolica
Dr. Heleieth Safiotti	Coordinator, National Investigation on Violence against Women
Ms. Malvina Muszkat	Pro Mulher
Ms. Sueli Carneiro	Executive Coordinator, Geledes - Instituto da Mulher Negra
Ms. Milza Iraci	Geledes

Campinas

Ms. Mirian Faury	President, Municipal Council of Women's Rights
Ms. Joceli Pereira	Chief Police Inspector, DEAM, Campinas
Ms. Maria José de Mattos Taube	SOS Açao Mulher

Porto Alegre

Mr. Tarso Genro	Mayor
Ms. Denise Dora	Themis
Ms. Marcia Soares	Themis
Ms. Marcia Camargo	Shelter Viva Maria